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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,774	12/03/2003	Antoine P. Manens	8703/CMP/CMP/RKK	7092
44257	7590	05/05/2006	EXAMINER	
PATTERSON & SHERIDAN, LLP 3040 POST OAK BOULEVARD, SUITE 1500 HOUSTON, TX 77056			MORGAN, EILEEN P	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,774	<b>Applicant(s)</b> MANENS, ANTOINE P.	
	<b>Examiner</b> Eileen P. Morgan	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/05, 1/05, 3/04, 4/04</u> | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 9 objected to under 37 CFR 1.75 as being a substantial duplicate of claim 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,8,10,11, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lindquist et al.-6,413,403.

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Lindquist discloses a multizoned processing pad for processing a substrate comprising a conductive layer (320), an upper non-conducting processing pad (330), at least two zones defined across upper pad surface that are defined by at least two sets of a plurality of holes 330aa, (Fig 3e) that can vary in density (spacing) and diameter ((col. 14, line 32; col15, lines 1-10), wherein the holes define different permeability for controlling the amount of electrolyte flow and thus controlling the uniformity during processing of substrate, further comprising a subpad (332) arranged between lower and upper pad, wherein each layer has at least one aperture.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Lindquist, alone.

Lindquist discloses a multizoned processing pad for processing a substrate comprising a conductive layer (320), an upper non-conducting processing pad (330), at least two zones defined across upper pad surface that are defined by at least two sets of a plurality of holes 330aa, (Fig 3e) that can vary in density (spacing) and diameter ((col. 14, line 32; col15, lines 1-10), wherein the holes define different permeability for controlling the amount of electrolyte flow and thus controlling the uniformity during processing of substrate, further comprising a subpad (332) arranged between lower and

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upper pad, wherein each layer has at least one aperture. Lindquist does not disclose the upper pad made of a first and second ring of material having varying permeability. However, it would have been obvious to one of ordinary skill in the art at time invention was made to make the upper layer into two rings of material of different permeability since both upper pads perform equally well and the choice of either would be within the level of ordinary skill.

Claims 9,12,14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindquist in view of Emesh et al.-6,736,952.

Lindquist discloses a multizoned processing pad for processing a substrate comprising a conductive layer (320), an upper non-conducting processing pad (330), at least two zones defined across upper pad surface that are defined by at least two sets of a plurality of holes 330aa, (Fig 3e) that can vary in density (spacing) and diameter ((col. 14, line 32; col15, lines 1-10), wherein the holes define different permeability for controlling the amount of electrolyte flow and thus controlling the uniformity during processing of substrate, further comprising a subpad (332) arranged between lower and upper pad, wherein each layer has at least one aperture. Lindquist does not disclose the lower conductive layer comprising a plurality of independently biasable electrical zones. However, Emesh discloses a system for planarization comprising upper and lower pads with channels for electrolyte flow, wherein the lower conductive plate (300) has zones (310, 330,360) for supplying different currents via a power source. Therefore, it would have been obvious to one of ordinary skill in the art at time invention

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was made to provide Lindquist with a lower conductive plate having a plurality of electrical zones for varying current used to planarize substrate, as taught by Emesh, in order to reduce edge effects caused by different rates of planarization (col.11, lines 50-53).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen P. Morgan whose telephone number is 571.272.4488. The examiner can normally be reached on Monday-Thursday (Office), Friday (Work at home).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571.272.4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EM  
May 1, 2006



EILEEN P. MORGAN  
PRIMARY EXAMINER